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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 JAMES PATE,

11 Plaintiff,

No. CIV S-05-848 KJM

12 vs.

13 MICHAEL J. ASTRUE,
14 Commissioner of Social Security,

15 Defendant.

ORDER

16 Plaintiff's motion for an award of attorneys' fees under the Equal Access to
17 Justice Act (EAJA), 28 U.S.C. § 2412(d)(1), is pending before the court. Plaintiff seeks fees
18 based on 40.55 hours in 2005 at the rate of \$160.91 per hour for attorney time and 4.5 hours in
19 2006 at the rate of \$167.01 per hour, for a total amount of \$7,276.32. Defendant contends the
20 number of hours claimed is unreasonable.

21 The EAJA directs the court to award a reasonable fee. In determining whether a
22 fee is reasonable, the court considers the hours expended, the reasonable hourly rate and the
23 results obtained. See Commissioner, INS v. Jean, 496 U.S. 154 (1990); Hensley v. Eckerhart,
24 461 U.S. 424 (1983); Atkins v. Apfel, 154 F.3d 986 (9th Cir. 1998). Defendant contends hours
25 expended by plaintiff's counsel are unreasonable. Specifically, defendant argues the number of

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1 hours claimed is excessive, duplicated effort should not be compensated and that counsel should
2 have made more of an effort to settle his EAJA request.

3 In reviewing the transcript, briefing on the cross-motions for summary judgment
4 and order granting remand in this case, as well as the time expended on tasks as set forth in
5 plaintiff's schedule of hours, the court has determined the hours claimed are reasonable.
6 Although two attorneys worked on this case, the amount of time expended by the junior attorney
7 working on the brief and the reviewing attorney is neither disproportionate nor unreasonable.
8 With respect to the total number of hours claimed by counsel, the court notes counsel did not
9 represent plaintiff at the administrative level and had to become familiar with the case, which
10 included a 278 page administrative transcript and involved complex issues related to Listings
11 2.02 and 2.04 relating to visual impairments. The court has scrutinized closely the hours claimed
12 by counsel and finds no reason to believe they are inflated. In addition, defense counsel's claim
13 that the time spent on preparing the motion for attorneys' fees might have been obviated had
14 more intensive efforts been made to settle the claim is entirely speculative and in fact belied by
15 the arguments defense counsel now makes in opposition. Therefore the court will order that
16 counsel be paid for the claimed hours of attorney time spent in the prosecution of this action.

17 Accordingly, IT IS HEREBY ORDERED that fees pursuant to the EAJA are
18 awarded to plaintiff in the amount of \$7,276.32.

19 DATED: September 26, 2007.

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22 U.S. MAGISTRATE JUDGE
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